

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

INVESTIGATION INTO WHETHER WATS	)	
RESELLER SHOULD BE INCLUDED IN THE	)	ADMINISTRATIVE
ULAS ALLOCATION PROCESS	)	CASE NO. 328

O R D E R

On June 23, 1989, LDDS of Kentucky, Inc.<sup>1</sup> and LDDS of Indiana, Inc.<sup>2</sup> (jointly "LDDS") filed a motion to adopt a settlement proposal. On July 17, 1989, AT&T Communications of the South Central States, Inc. ("AT&T") filed a response to the motion. On July 16, 1990, the Commission invited comments on the motion. On August 15, 1990, AT&T filed a supplemental response to the motion and MCI Telecommunications Corporation ("MCI") filed comments on the motion. On August 16, 1990, South Central Bell Telephone Company ("South Central Bell") filed a response to the motion.

LDDS moves the Commission to adopt its settlement proposal as "a fair and reasonable mechanism for including resellers in the

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<sup>1</sup> LDDS of Kentucky, Inc. d/b/a LDDS Communications, formerly Telcor, Inc. d/b/a Telamarketing Communications of Louisville.

<sup>2</sup> LDDS of Indiana, Inc. d/b/a LDDS Communications, formerly Telamarketing Communications of Evansville, Inc.

ULAS allocation scheme, while avoiding double recovery by LECs."<sup>3</sup>

The settlement proposal stipulates the following:

LDDS agrees that application of the ULAS allocation scheme to resellers would not be unreasonably discriminatory, provided however, that resellers receive a credit for every originating minute that terminates through a facility on which a terminating ULAS charge is assessed by an underlying carrier.<sup>4</sup>

AT&T opposes LDDS's settlement proposal in both its initial and supplemental responses. AT&T argues that:

[T]he proposal does not represent an agreed upon settlement of the parties to this proceeding; the proposal is vague, ambiguous and subject to various interpretations; it is based upon inaccurate and misleading assumptions; and granting the Motion without the agreement of the other parties and without affording the parties an opportunity to be heard would result in a denial of due process of law.<sup>5</sup>

AT&T elaborates these points in its responses and suggests that the Commission "require that all carriers purchasing terminating switched access participate in the ULAS process."<sup>6</sup>

MCI's comments generally support AT&T's arguments.

South Central Bell also opposes LDDS's settlement proposal, contending that LDDS's evaluation of ULAS liability is flawed and understates the actual amount of ULAS allocation that should be paid by resellers. Although somewhat more refined, South Central

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<sup>3</sup> Motion to Adopt Settlement Proposal, page 3. ULAS is an acronym for Universal Local Access Service. LEC is an acronym for Local Exchange Carrier.

<sup>4</sup> Ibid., Exhibit A, page 2.

<sup>5</sup> Response to Motion to Adopt Settlement Proposal, page 1.

<sup>6</sup> Supplemental Response to Motion to Adopt Settlement Agreement, page 1.

Bell suggests an approach to ULAS allocation to WATS<sup>7</sup> resellers similar to the approach suggested by AT&T and MCI.

At present, ULAS charges apply to facilities-based carriers and are designed to recover the portion of interLATA<sup>8</sup> non-traffic sensitive revenue requirement that is not recovered through carrier common line charges. As a result of Administrative Case No. 311,<sup>9</sup> ULAS charges are determined based on terminating switched access minutes of use. Also, at present, ULAS charges do not apply to WATS resellers. This exemption is based on the presumptions that WATS resellers do not own or operate transmission facilities and do not use access services, except as access services may be bundled with WATS.

The purpose of this investigation is to determine whether WATS resellers should be subject to ULAS charges. In large part, that decision rests upon the extent to which WATS resellers use switched access services in lieu of WATS and a determination that such use is appropriate. Also, decisions pending in Administrative Case No. 323<sup>10</sup> that may eliminate distinctions between WATS resellers and interLATA carriers may affect the

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<sup>7</sup> Wide Area Telecommunications Service.

<sup>8</sup> Local Access and Transport Area.

<sup>9</sup> Administrative Case No. 311, Investigation of InterLATA Carrier Billed Minutes of Use as a ULAS Allocator.

<sup>10</sup> Administrative Case No. 323, An Inquiry Into IntraLATA Toll Competition, An Appropriate Compensation Scheme for Completion of IntraLATA Calls by Interexchange Carriers, and WATS Jurisdictionality.

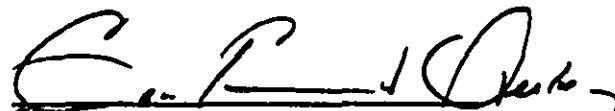
decision. In any event, consistent with past decisions,<sup>11</sup> the Commission does not intend to apply ULAS charges to resold WATS, as such charges are reflected in the rates of the underlying carrier.

The Commission finds that LDDS's motion should be denied. The proposed settlement is premature in that the Commission has not obtained all information necessary to this investigation and a complete evaluation of all alternatives.

Having been otherwise sufficiently advised, the Commission HEREBY ORDERS that LDDS's motion to adopt a settlement proposal is denied. A procedural schedule to conclude this investigation will be forthcoming.

Done at Frankfort, Kentucky, this 6th day of February, 1991.

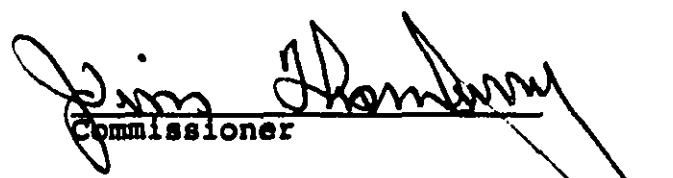
PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

ATTEST:

  
Executive Director

  
Commissioner

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<sup>11</sup> Case No. 8838, An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities Pursuant to Changes to be Effective January 1, 1984, Order dated May 1, 1985, pages 9-10.